

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

DERRICK BURKS §
v. § CIVIL ACTION NO. 5:17cv204
ROBERT PAGE, ET AL. §

ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Derrick Burks, a former inmate of the Bowie County Correctional Center proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3).

Plaintiff was ordered to pay an initial partial filing fee of \$24.40, in accordance with 28 U.S.C. §1915(b), or to show good cause for his failure to do so. He received a copy of the order on December 2, 2017, but did not comply. The Magistrate Judge issued a Report and Recommendation (Docket No. 5) on March 14, 2018, recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. A copy of this Report was sent to Plaintiff but was returned as undeliverable (Docket No. 6). The Clerk of Court contacted the Bowie County Correctional Center and was informed Plaintiff had bonded out of the facility on January 5, 2018. Since that time, Plaintiff has not advised the Court of his current address and has not contacted the Court in any way.

At the time of filing his Complaint, Plaintiff agreed to the following statement: “I understand that if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.” (Docket No. 1 at 4).

Plaintiff's failure to prosecute his case is shown by his failure to pay the initial partial filing fee and to keep the Court apprised of his current address.

Because no objections have been received to the Report, Plaintiff is barred from *de novo* review by the district court of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report and Recommendation of the Magistrate Judge. The Court agrees with the Magistrate Judge that this action should be dismissed for failure to prosecute. It is accordingly

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 5) is **ADOPTED** in its entirety as the opinion of the Court. It is further

ORDERED the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute and to comply with an order of the Court. Fed. R. Civ. P. 41(b). Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

SIGNED this 29th day of May, 2018.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE